

Date June 23, 2008

**HOLD HEARING ON THE VACATION OF PORTIONS OF  
SOUTHEAST 2<sup>ND</sup> STREET AND RACCOON STREET RIGHT-OF-WAY AND  
CONVEYANCE TO MIDAMERICAN ENERGY COMPANY FOR \$1**

**WHEREAS**, on April 25, 2005, by Roll Call No. 05-969, the City Council of the City of Des Moines authorized the acquisition, by gift, negotiation, or condemnation, of the right-of-way required to construct the Southeast Connector Project – SW 2<sup>nd</sup> to SE 6<sup>th</sup> Street Phase (“Project”); and

**WHEREAS**, on September 24, 2007, by Roll Call No. 07-1829, the City Council established the fair market value of property interests located at 200 SE 3<sup>rd</sup> Street, Des Moines, Iowa 50309, and owned by MidAmerica Development Company and leased by MidAmerican Energy Company; and

**WHEREAS**, on March 10, 2008, by Roll Call No. 08-378, the City Council approved a Right-of-Way acquisition settlement agreement and accepted easements from MidAmerica Development Company and Mid American Energy Company, which settlement included the agreement that upon approval by the City Planning & Zoning Department, the City will vacate and convey to MidAmerican Energy a portion of SE 2<sup>nd</sup> Street valued at \$20,000.00 to be used by MidAmerican Energy for internal site access in lieu of MidAmerican Energy’s request of compensation in the amount of \$90,247.00 for gates with card readers and a chain link fence; and

**WHEREAS**, the vacation of the portions of Southeast 2<sup>nd</sup> Street and Raccoon Street, hereinafter more fully described, and conveyance of a part thereof to MidAmerican Energy, will eliminate the need for public or private vehicular access to Southeast 2<sup>nd</sup> Street between Market Street and Raccoon Street and to Raccoon Street between Southeast 2<sup>nd</sup> Street and Southeast 4<sup>th</sup> Street, which allows for expansion and increased security of the City’s Fleet Services operation; and

**WHEREAS**, on June 9, 2008, by Roll Call No. 08-991, the City Council adopted a recommendation from the City Plan and Zoning Commission that portions of Southeast 2<sup>nd</sup> Street and Raccoon Street, hereinafter more fully described, be vacated, including the part thereof to be transferred to MidAmerican Energy; and

**WHEREAS**, on June 9, 2008, by Roll Call No. 08-990, it was duly resolved by the City Council that the proposed vacation of such right-of-way and conveyance of a part thereof be set down for hearing on June 23, 2008, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate public right-of-way and convey a part thereof was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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NOW THEREFORE BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way as described below are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of portions of Southeast 2nd Street and Raccoon Street, more specifically described as follows:

All that part of Southeast 2nd Street right-of-way lying North of the easterly extension of the North right-of-way line of Raccoon Street and South of the easterly extension of the South right-of-way line of vacated East Elm Street vacated by Ordinance 9187, October 4th, 1976 and lying East of and adjoining Block A, Scott and Dean's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

and

All that part of Southeast 2nd Street right-of-way lying East of and adjoining Block A, Scott and Dean's Addition, an Official Plat, and all that part of Raccoon Street right -of-way lying East of the East Bank of the Des Moines and Raccoon Rivers and West of the southerly extension of the West right -of-way line of Southeast 4th Street, and lying South of and adjoining Blocks R, A, M, and Block 6, of said Scott and Dean's Addition, and lying South of Southeast 1st Street, Southeast 2nd Street and lying South of vacated Southeast 3rd Street, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

DESCRIPTION APPROVED  
3/23/08 10:58

3. That the sale and conveyance of a part such right-of-way, legally described as follows, to MidAmerican Energy Company for \$1.00 be and is hereby approved:

A portion of Southeast 2nd Street and Elm Street right-of-way between Blocks A and M, Scott and Dean's Addition, an Official Plat, Polk County, Iowa, and more particularly described as:

Beginning at the northwest corner of said Block M; thence South 18° (Degrees) 39' (Minutes) 32" (Seconds) West, 119.23 feet, to the westerly right-of-way line of Southeast 2nd Street, as presently established; thence North 14°57'04" West, on said westerly right-of-way line and its northerly extension, 147.00 feet; thence North 74°47'20" East, 66.00 feet, to the easterly right-of-way line of Southeast 2nd Street, as presently established; thence South 14°57'04" East, on the northerly extension of said easterly right-of-way line, 48.00 feet, to the point of beginning. Containing 0.15 acres.

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Subject to an easement upon the property described above for the continued use and maintenance of any utilities now in place, including those for the benefit and use of the City of Des Moines, with the right of entry for servicing same.

4. The Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way, the City Clerk is authorized and directed to forward the original of the said deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantee.

8. The costs associated with the vacation and conveyance of this property will be charged to the following: 2007-08 CIP, Street Improvements, SE Connector – SW 2<sup>nd</sup> to SE 6<sup>th</sup>, STR214, Page – Streets 41.

(Council Communication No. - \_\_\_\_\_)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

*Glenna K. Frank*  
Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk